

On January 23, 2008 appellant, then a 45-year-old security screener, filed a traumatic injury claim (Form CA-1) alleging that on January 9, 2008 he sustained a back injury when he used a hooked stick to loosen jammed luggage. He stopped working on January 13, 2008. On that date, appellant received treatment at a local hospital emergency room for an acute

lumbosacral strain. In a form report dated February 15, 2008, Dr. Donald Siao, a family practitioner, indicated that appellant could return to light duty on February 18, 2008.

The Office accepted the claim for a lumbar sprain. Appellant continued to work in a light-duty position. In a July 3, 2008 report, Dr. Sherman Tran, an attending physiatrist, indicated that a June 19, 2008 magnetic resonance imaging (MRI) scan showed L5-S1 disc protrusion, L4-5 degenerative disc disease and mild foraminal stenosis L5-S1. He diagnosed sciatica and indicated that appellant was restricted to lifting 15 pounds.

On September 24, 2008 appellant submitted a recurrence of disability claim (Form CA-2a) commencing September 11, 2008. The date pay stopped is listed as September 14, 2008.¹ He stated that he had pain in the lower back increasing with standing, and pain and numbness in the left leg. Appellant reported that his right knee began to swell and pop when bent, as a result of shifting to the right leg because of the left leg pain.

In a note dated September 11, 2008, Dr. Siao stated, "Please excuse [appellant] from work due to a medical [illegible]." In a form report dated September 13, 2008, he diagnosed lumbosacral radiculitis and checked a box "yes" that the condition was employment related. Dr. Siao indicated that appellant was totally disabled from September 12 to October 20, 2008.

In a narrative report dated October 20, 2008, Dr. Siao reported that, on September 13, 2008, appellant was placed back on total disability "due to persistent pain with neurologic involvement of the lower extremities. In addition, he was experiencing progressive pain in the right knee due to compensating for the back pain." On November 7, 2008 the Office advised appellant that the evidence submitted in support of his claim did not provide any medical findings or rationale on the issue of disability. It requested that he submit additional medical evidence to support his recurrence claim.

Appellant submitted a December 11, 2008 report from Dr. Tran who stated that appellant reported that on September 11, 2008 he had acute exacerbation of pain secondary to prolonged standing and lifting items at work. Dr. Tran opined that this was an aggravation of underlying work-related injury dated January 9, 2008. He stated, "Due to the nature of the patient's work, prolonged standing and lifting activity, it is reasonable for him to have this acute exacerbation."

By decision dated December 23, 2008, the Office denied appellant's claim for a recurrence of disability.

LEGAL PRECEDENT

The Office's regulations define the term recurrence of disability as follows:

"Recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which had resulted from a previous injury or illness without an intervening injury or new

¹ Appellant also submitted a claim for compensation (Form CA-7) for the period September 14 to October 20, 2008.

exposure to the work environment that caused the illness. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations."²

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.³ To establish a change in the nature and extent of the injury-related condition, there must be probative medical evidence of record. The evidence must include a medical opinion, based on a complete and accurate factual and medical history, and supported by sound medical reasoning, that the disabling condition is causally related to employment factors.⁴

ANALYSIS

The Office accepted that appellant sustained a lumbar sprain in the performance of duty on January 9, 2008. Appellant returned to a light-duty position in February 2008 and filed a claim for a recurrence of disability commencing on or about September 14, 2008. He did not allege a change in the light-duty job. It is appellant's burden of proof to submit probative medical evidence to establish a change in the nature and extent of an employment-related condition.

Appellant was seen on September 11, 2008 by Dr. Siao, but he provided only a brief note with no findings from any examination. A September 13, 2008 form report diagnosed lumbosacral sciatica and checked a box "yes" as to causal relationship. The diagnosed condition was not the condition accepted by the Office in this case. Moreover, the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.⁵ Dr. Siao failed to discuss how the accepted employment-related condition changed such that appellant could not perform the light-duty job during the claimed period. The October 20, 2008 report reported "persistent pain with neurologic involvement of the lower extremities" on September 13, 2008, without further explanation.

² 20 C.F.R. § 10.5(x).

³ *Albert C. Brown*, 52 ECAB 152 (2000); *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁴ *Maurissa Mack*, 50 ECAB 498 (1999).

⁵ *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

With regard to the right knee, appellant appears to allege that he sustained a consequential injury as a result of his accepted back injury. The Board has held that the subsequent progression of an employment-related condition “remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause.”⁶ Dr. Siao briefly noted that appellant had right knee pain “due to compensating for the back pain.” He did not provide any additional detail or a rationalized medical opinion establishing a right knee injury causally related to the accepted injury. Dr. Siao also did not establish that the condition caused disability for work on or about September 14, 2008.

Appellant submitted reports from Dr. Tran regarding his continuing back treatment. In his December 11, 2008 report, Dr. Tran referred to prolonged standing and lifting at work. To the extent appellant is claiming that his light-duty work aggravated his condition, this would be a claim for a new injury rather than a recurrence.⁷

The medical evidence of record does not contain a reasoned medical opinion establishing a recurrence of disability as of September 14, 2008. The evidence does not establish a change in the nature and extent of an employment-related condition.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish a recurrence of disability as of September 14, 2008.

⁶ *Raymond A. Nester*, 50 ECAB 173, 175 (1998).

⁷ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 23, 2008 is affirmed.

Issued: October 14, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board